

EXHIBIT D

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Special Access and FOIA Officer
National Archives and Records Administration
8601 Adelphi Road, Room 5500
College Park, MD 20740- 6001
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FOIA REQUEST

Fee benefit requested

Dear FOIA Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of records and photographs relating to civil rights movement and cases related to race relations in the Selma area in several boxes marked "Selma" at the National Archives – to include any photographs, records, items relating to the cases of James Reeb (including 44A-MO-45942), Jimmie Lee Jackson (including 282A-MO-45941), and Viola Liuzzo, believed to be in boxes marked "Selma" at the national archives, which contain excerpts from the FBI case files. The "Selma" boxes are referred to as having existed in an FBI report "Civil Rights Era Cold Cases Investigative Process and Results" dated July 16, 2009 (attached) in which Dallas County Alabama District Attorney Michael Jackson was able to inspect and copy several documents related specifically to the Jackson case.

We would like to examine the information in original forms where possible. Where duplication is necessary, I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$200. However, please notify me prior to your incurring any expenses in excess of that amount.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Through this request, I am gathering information on a significant Civil Rights era cold case that is of current interest to the public because we have learned new information that could lead to a resolution in the case, but we need access to these documents. I am a producer at National Public Radio, and we are producing a major podcast digging into these events. This information is being sought on behalf of NPR News for dissemination to the general public.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I would appreciate your communicating with me by email or telephone, rather than by mail.

I look forward to your determination regarding my request within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

Graham Smith



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

July 16, 2009

**CIVIL RIGHTS ERA COLD CASES
INVESTIGATIVE PROCESS AND RESULTS**

This document is to provide FBIHQ/PCCRS/Civil Rights Unit and the DOJ/Civil Rights Unit the investigative process and results regarding the Civil Rights Era Cold Cases addressed by FBI Mobile / Selma Resident Agency (RA).

This document summarizes the investigative process and results for each of the four (4) cases for which FBI Mobile / Selma Resident Agency (RA) (Special Agents (SA) [redacted] and [redacted]) addressed (It should be noted that documentation regarding the four (4) captioned cases has previously been provided to FBIHQ/PCCRS/Civil Rights Unit and the DOJ/Civil Right Unit).

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Investigative Process:

The cases addressed by the Selma RA are as follows:

JIMMIE LEE JACKSON (282A-MO-45941)

On 07/15/2008, a Preliminary Investigation (PI) was initiated, in response to the Civil Rights Era Cold Case Initiative. Agents were to ascertain whether or not a violation of federal law existed with regard to captioned matter.

On 02/18/1965, JIMMIE LEE JACKSON, along with a group of Civil Rights marchers were chased into Mack's Café in Marion, Alabama by approximately ten (10) Alabama State Troopers.

As the Troopers entered the café, it was reported that the Troopers immediately started overturning tables and hitting customers and marchers alike. In the melee, the Troopers reportedly clubbed 82-year old CAGER LEE to the floor and [redacted] when she rushed to his aid.

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When Jimmie Lee Jackson reportedly attempted to aid his mother, he was shot in the stomach by Trooper [redacted] in what was described by [redacted] as self defense.

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Jimmie Lee Jackson was transported to Good Samaritan Hospital in nearby Selma, Alabama where he died on 02/26/1965 from what the autopsy ruled to be Peritonitis, resulting from a gunshot wound to the abdomen.

An attempt to indict [redacted] in 1965 was met with a "No Bill" by a Perry County Grand Jury on 09/28/1965. On 05/09/2007, [redacted] was indicted on charges of 1st and 2nd Degree Murder and a trial was scheduled to begin approximately 10/20/2008, but due to defense motions, which are now being heard by the Alabama Court of Appeals, a new trial date has yet to be set.

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Writer reviewed numerous data bases and web sites and was able to obtain further information from newspaper articles related to captioned case. Writer downloaded various open source newspaper articles, via the internet, regarding captioned case.

After further searches, it was determined that the FBI had conducted an investigation into the incident in 1965, MO-44-1226 and 44-HQ-18516, but the case files, due to the amount of time that had passed, had since been destroyed. Excerpts from the original case files were located by FBIHQ at the National Archives in Washington, D.C. and copies of those files were provided to the FBI Mobile, who in turn provided the information to the District Attorney's office. Also provided with the case file documents received from the National Archives were photocopies of photographs of numerous injured persons, including Jimmie Lee Jackson, from the incident in Marion, Alabama the night of 02/18/1965.

FBIHQ/CID/Civil Rights Unit SSA [redacted] was contacted and advised of the initiation of the PI into captioned matter and the pending trial of [redacted]. Writer was advised to monitor the case and to provide assistance to the District Attorney's office, if requested and possible.

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Writer and SA [redacted] visited the Alabama Department of Archives and History in Montgomery, Alabama and were unable to locate any documents pertaining to the case file of captioned case. Agents were able to locate various newspaper articles relating to captioned case.

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Writer contacted the United States Attorney's Office, Southern District of Alabama to ascertain if the U.S. Attorney's Office had any case files regarding captioned case. Writer was advised the U.S. Attorney's Office had no files or cases stored prior to the year 1980.

On 08/27/2008, District Attorney [redacted] provided writer with a copy of the Prosecution's tentative witness list. On 09/12/2008, District Attorney [redacted] provided writer with copies of various memos and autopsy documents from the State of Alabama, Department of Toxicology and Criminal Investigation.

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On 09/17/2008, writer spoke with Investigator [redacted] [redacted] Alabama Bureau of Investigation (ABI), who advised that the ABI had been the initial lead investigating agency once the investigation into the shooting of Jimmie Lee Jackson was re-opened. [redacted] advised, since the case had since moved to the prosecution stage, the District Attorney's office's investigators had now taken the lead in the investigation and the ABI was assisting.

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On 09/17/2008, writer prepared an EC to the Criminal Investigative Division (CID)/Civil Rights Unit (CRU)), dated 09/17/2008 [Ref: 282A-MO-45941 Serial 4], requesting the PI be closed due to the pending prosecution of [redacted] by the State of Alabama. The EC also had enclosures containing numerous copies of the documents previously described in this communication. Copies of the enclosures were maintained by the Mobile Division and also sent to CID/CRU.

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On 09/18/2008, District Attorney [redacted] office: [redacted] and Cell: [redacted] contacted writer requesting FBI assistance in obtaining scanned copies of the photographs for the captioned case maintained at the U.S. National Archives in Washington, D.C.. District Attorney [redacted] advised he would be in Washington, D.C. the week of 09/22-26/2008 and wished to visit the U.S. National Archives during that week and obtain scanned copies of the photographs for use in the upcoming trial.

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[redacted] U.S. National Archives, advised writer that the U.S. National Archives maintains several boxes of documents, simply labeled "SELMA", and the excerpts from the FBI case files, to include the photographs, were in these boxes. Walker advised further that the archives does not have any negatives for the photographs, only the photographs.

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[redacted] advised the photographs could be scanned, but that the FBI would have to bring the equipment to do the scanning because the U.S. National Archives does not have nor maintain the equipment necessary to accomplish the scanning. Walker further advised that arrangements to scan the photographs should be

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coordinated through [redacted] Special Access Staff. Walker advised access clearances would also have to be passed.

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Writer contacted FBIHQ Civil Rights Unit, SSA [redacted] [redacted] who advised the unit did not have any personnel or equipment necessary to assist with the request and referred writer to the Washington Field Office (WFO). Writer contacted the WFO, SSA [redacted] Squad CR-12, who handles civil rights issues within the Northern Virginia and Washington, D.C. areas. SSA [redacted] also advised that the squad did not have the equipment necessary to assist with the request and referred writer to the FBI Laboratory Division/ORS Photographic Operations and Imaging Services Unit.

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Writer contacted UC [redacted] Laboratory Division/ORS Photographic Operations and Imaging Services Unit and advised him of the request. UC [redacted] advised the unit would be able to assist, but that he would not be in town the same week as District Attorney [redacted] UC [redacted] advised he would refer the request to [redacted] [redacted] who would be the acting UC during the week District Attorney [redacted] would be in Washington, D.C.

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Writer advised UC [redacted] of the drafting of an immediate EC, dated 09/18/2008, (Reference 282A-MO-45941, Serial 3) for assistance and UC [redacted] provided the fax number (703) 632-8095 for writer to send the EC.

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The EC requested that the Laboratory Division/ORS Photographic Operations and Imaging Services Unit assist in obtaining scanned copies of photographs from the U.S. National Archives, Washington, D.C., for captioned case. The Laboratory Division/ORS Photographic Operations and Imaging Services Unit was advised to coordinate with District Attorney [redacted] on the exact photographs to be scanned.

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Writer contacted District Attorney [redacted] and provided him the contact information for UC [redacted] and [redacted]

On Friday, 09/19/2008, writer was contacted by SSA [redacted] who requested the contact information for District Attorney [redacted] SSA [redacted] advised she would contact District Attorney [redacted] and offer assistance, if necessary, and provide a point-of-contact while he was in Washington, D.C..

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On 09/22/2008, SA [redacted] WFO, was assigned to assist District Attorney [redacted] and escorted him to the U.S.

National Archives in College Park, Maryland. Once at the U.S. National Archives, photographers with the Laboratory Division/ORS Photographic Operations and Imaging Services Unit took pictures of archived documents related to the 1965 death of Jimmie Lee Jackson. The documents were in a box labeled "SELMA".

WFO requested, via letter dated 09/23/08, for the U.S. National Archives to release missing documents from the aforementioned box labeled "SELMA", that were marked "withdrawal notice". A copy of the letter was placed in a FD-340.

On 09/25/2008, SA [] released the following items to District Attorney []:

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Item One: Two copies of one FBI CD, marked "Civil Rights Case 1965 924-2008", containing images #1698 - 1733.

Item Two: Two 8 x 10 copies of 36 photos related to the 1965 death of JIMMIE LEE JACKSON (images #1698 - 1733).

Item Three: Original facsimile from [] National Archives, College Park, Maryland to FBI SA [] date 9/24/08, 59 pages.

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On 10/01/2008, SA [] released the following items to District Attorney [] (Via FEDEX, to his office in Selma, Alabama):

Item One: Two copies of one FBI CD, containing images #1734 - 1804, i.e., photographs of documents from U.S. National Archives, taken by the Laboratory Division/ORS Photographic Operations and Imaging Services Unit on 09/26/08, in College Park, Maryland, related to the 1965 death of JIMMIE LEE JACKSON.

Item Two: Two 8 x 10 copies of 71 photos related to the 1965 death of JIMMIE LEE JACKSON (images #1734 - 1804).

On 10/16/2008, SA [] forwarded writer, via FEDEX, copies of the following items:

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- 1.) FD-340, dated 9/24/08, containing one copy of a U.S. National Archives facsimile to WFO, dated 09/24/08.
- 2.) FD-340, dated 9/25/08, containing one CD and 36 8 x 10 photos related to images #1698 - 1733.
- 3.) FD-340, dated 10/1/08, containing one CD and 71 8 x 10 photos related to images #1734 - 1804.
- 4.) FD-340, containing one WFO facsimile to the U.S. National Archives, dated 9/23/08.
- 5.) FD-340, containing a signed FD-597, dated 9/25/08, signed by District Attorney [REDACTED].
- 6.) FD-340, containing a signed FD-597, dated 9/25/08, signed by District Attorney [REDACTED].
- 7.) FD-340, containing a signed FD-597, dated 10/1/08, related to the release of documents to District Attorney [REDACTED].

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Writer received the listed items, via FEDEX, on 10/09/2008 and the items are being maintained by the Mobile Division.

On 10/21/2008, writer drafted an additional EC, dated 10/21/2008, requesting the Mobile change the status of captioned case from "Closed" to "Pending Inactive", awaiting for DOJ prosecutorial opinion.

On Friday, 03/27/2009, writer attempted to contact District Attorney [REDACTED] in an attempt to obtain the names of the family members of Jimmie Lee Jackson.

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Writer spoke with Assistant District Attorney (ADA) [REDACTED] and he provided the following names:

[REDACTED] to Jimmie Lee Jackson and [REDACTED] - purported to be [REDACTED] of Jimmie Lee Jackson.

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[REDACTED] provided a LETS printout on Jackson and it showed an address of 608 Tuscaloosa Street, Eutaw, Alabama 35462. [REDACTED] also provided a LETS printout on [REDACTED] and it showed an address of [REDACTED] Marion, Alabama 36756.

Further research by writer using [] showed a possible pager number of [] but writer was unable to find a telephone number for [].

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[] informed writer that [] is purported to be [] of Jimmie Lee Jackson, but it has never truly been confirmed that she is in fact [] of Jimmie Lee Jackson. [] advised that [] was an infant when Jimmie Lee Jackson was killed.

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[] also provided a copy of the Alabama Department of Public Safety personnel file for [].

A further review of documents previously submitted by writer revealed that Jimmie Lee Jackson may have family residing in the area of Anniston, Alabama according to an article in the Anniston Star dated 05/09/2007. The reporter of the article spoke with a CAGER LEE, JR., who was reportedly the uncle to Jimmie Lee Jackson and also spoke with several of Jimmie Lee Jackson's purported [] and Perry County Sheriff's Office [] (See enclosures with 282A-MO-45941, Serial 4).

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On Tuesday, 03/24/2009, writer received a FEDEX envelope sent from IOA [] FBI Mobile / Montgomery RA. The FEDEX envelope contained an official certified copy of a Certificate of Death for Jimmie Lee Jackson sent by the State of Alabama Department of Public Health, Center for Health Statistics (See enclosures with 282A-MO-45941, Serial 10).

Writer attempted numerous times to contact [] at [] (06/15/09, 07/06/09, 07/07/09), but no contact was ever made. On Tuesday, 07/14/2009, writer and SA [] traveled to [] Eutaw, Alabama 35462 in an attempted to contact [] but no contact was made. Writer left a business card for [] to contact the FBI.

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Writer and SA [] then traveled to Marion, Alabama and attempted to contact [] at her place of employment, Perry County Department of Health, P.O. Box 119 (Route 2 Box 4G), Marion, Alabama 36756, telephone number (334) 683-6153. Employers stated [] works the evening shift and was expect in at 2 PM. Employers attempted to contact [] via telephone, but writer was advised that the telephone number the employer had was not working. Writer and SA [] waited until 2:15 PM, but [] never arrived. Writer left a

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business card with instructions for [] to contact the FBI.

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Attempts to contact both [] and [] were in an effort to comply with the FBIHQ CID/PCCRS/Civil Rights Unit and DOJ/Civil Rights Unit requirement to have family members contacted and informed that the Department of Justice was conducting a review of the circumstances surrounding their family members death and would be making a determination as to whether or not the Department of Justice had sufficient cause to pursue it as a criminal matter. Family members were to also be informed that once a determination had been made, a representative of the Department of Justice would personally visit them and present them with a letter advising them of the Department of Justice's determination.

FBI Selma will continue to monitor the [] trial and report to FBIHQ CID/PCCRS/Civil Rights Unit and DOJ/Civil Rights Unit, and the USAO the outcome, via a separate communications, once the trial has concluded, thus bringing a resolution to the matter.

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REV. JAMES JOSEPH REEB (44A-MO-45942)

On 07/07/2008, a Preliminary Investigation (PI) was initiated, in response to the Civil Rights Era Cold Case Initiative. Agents were to ascertain whether or not a violation of federal law existed with regard to captioned matter.

On Tuesday, 03/09/1965, three (3) Unitarian Universalist ministers - JAMES REEB, [] and CLARK OLSEN - were walking back to Brown's Chapel from a nearby restaurant in Selma, Alabama. James Reeb had participated in the Selma to Montgomery protest march earlier that day. Reeb and the other two ministers were attacked on a sidewalk by four (4) white local men. One of the attackers, alleged to be ELMER L. COOK, swung a club over Reeb's head. After the attack, Reeb was taken by ambulance to the University Hospital in Birmingham, Alabama. On Thursday, 03/11/1965, at approximately 7:00 PM, Reeb died from the injuries sustained in the attack.

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After Reeb's death, police arrested and charged ELMER L. COOK, WILLIAM STANLEY HOGGLE, [] and R.B. KELLEY for Reeb's murder. Cook, W. Hoggle and [] were indicted for first degree murder in state court. Kelley was not indicted.

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